

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, October 27, 2004, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Gene Carroll, Roger Larson, Melinda Pearson, Mary Bills-Strand and Tommy Taylor (Gerry Krieser, Dan Marvin and Lynn Sunderman absent); Marvin Krout, Ray Hill, Mike DeKalb, Ed Zimmer, Brian Will, Becky Horner, Duncan Ross, Tom Cajka, Greg Czaplewski, Derek Miller, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held October 13, 2004. Motion for approval made by Larson, seconded by Carlson and carried 5-0: Carlson, Larson, Pearson, Bills-Strand and Taylor voting 'yes'; Carroll abstaining; Krieser, Marvin and Sunderman absent.

### **CONSENT AGENDA**

#### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

##### **BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Carroll, Larson, Bills-Strand and Taylor; Pearson declaring a conflict of interest; Krieser, Marvin and Sunderman absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3425; USE PERMIT NO. 124A; USE PERMIT NO. 150B; SPECIAL PERMIT NO. 1813A, an amendment to THE PRESERVE ON ANTELOPE CREEK COMMUNITY UNIT PLAN; COUNTY SPECIAL PERMIT NO. 04052; SPECIAL PERMIT NO. 04053; COMPREHENSIVE PLAN CONFORMANCE NO. 04009; WAIVER NO. 04014; and MISCELLANEOUS NO. 04004.**

**Item No. 1.3, Use Permit No. 150B**, was removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Larson and carried 5-0: Carlson, Carroll, Larson, Bills-Strand and Taylor voting 'yes'; Pearson declaring a conflict of interest; Krieser, Marvin and Sunderman absent.

Note: This is final action on Special Permit No. 04053 and Waiver No. 04014, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**USE PERMIT NO. 150B**  
**TO EXCEED THE MAXIMUM HEIGHT**  
**REQUIREMENT IN THE B-5 PLANNED**  
**REGIONAL BUSINESS DISTRICT,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 91<sup>ST</sup> STREET AND HIGHWAY 2.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: Carroll reported a phone conversation with the landowner.

This application was removed from the Consent Agenda due to correspondence in opposition.

Brian Will of Planning staff submitted a letter in opposition from the property owner at 7901 S. 78<sup>th</sup> Street. The record also contains a letter in opposition from the property owner at 8201 Amber Hill Road.

Proponents

1. **DaNay Kalkowski** appeared on behalf of the applicant, **Eiger Corp.** She requested a two-week deferral for the opportunity to meet with the neighbors and address their concerns.

Larson moved to defer two weeks, with continued public hearing and action scheduled for November 10, 2004, seconded by Taylor and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

There was no other testimony.

**CHANGE OF ZONE NO. 04069**  
**TO AMEND TITLE 27 OF THE LINCOLN MUNICIPAL CODE**  
**REGARDING OFF-PREMISES SIGNS,**  
**DISTANCE FROM INTERSTATES.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

Derek Miller of Planning staff presented the proposal. This amendment proposes to regulate off-premises signs along Interstate 80 and Interstate 180. This application is in response to recent events that have occurred in the Omaha area and the state policy regulating off-premises signs.

Miller advised that since the 1950's the State Department of Roads has been regulating off-premises signs, and they are being regulated from the boundaries of communities outward. That definition is being questioned as to whether it relates to the corporate limits or the jurisdictional limits. Since the 1950's, the boundary had been defined as the corporate limits. The NDOR has recently come to the conclusion that the boundary would mean the zoning jurisdiction of that community rather than the corporate limits. Because of that interpretation, 18 new billboards went up recently in the Omaha area. Certain advertising companies have applied for permits with the state and the state has looked to the local jurisdictions. Signs currently in place would be allowed to remain. This would only apply to new signs. Any new sign would not be allowed to be within 660 feet of the interstate. This only pertains to off-premises signs.

Opposition

**1. Martha Lee Heyne** testified in opposition on behalf of **Lamar Outdoor Advertising**, which is the majority provider of billboards within Lincoln. She provided a brief history of the billboard regulations in the Lincoln community. She believes that the proposed additional regulation has been brought forward as an over-reaction to what occurred in Omaha. Monte Fredrickson of the State Department of Roads indicates that this regulation is not necessary. The change in Omaha does not affect any property adjacent to the Interstate in Lincoln because it was not a part of the Lincoln city limits prior to September 21, 1959, which is when the incentive program went into play. The change regulating the interstate only affected the three-mile stretch in Omaha in the entire State of Nebraska. The State of Nebraska currently owns all of the advertising easements from "L" Street in Omaha all the way west to the

Colorado and Wyoming border, so Lincoln is already protected. There is simply no need for this additional regulation.

In 1999, Heyne stood in front of the Planning Commission in defense of her industry. It is a service that provides economic development for our community. Lamar has removed 23 billboard structures in the community and has not replaced one of them, the result being that there are twenty-three landowners not receiving rent checks. It is indeed a "cap and no replace" regulation because of the multiple layers of regulations imposed on the industry by this community. Although this proposed regulation does not directly affect Lamar, she does not understand why the sign industry is an ongoing target for a slow death sentence in this community.

Taylor inquired as to the indirect effect on Lamar. Heyne stated that additional regulations are making the existing billboards nonconforming. Therefore, any billboards that are within the 660' would be considered nonconforming. Lamar's goal is to pull people off the interstate and get them into our community to spend money in our community. She gave the example of the Motel 6 sign at mile post 395. It is within the city's three-mile jurisdiction so it would become nonconforming. If it would be blown down, it could not be replaced. And the landowner loses the rent and the business would no longer have interstate signage.

**2. Robbie Carlson**, 4717 S. 153<sup>rd</sup> Street, Omaha, testified in opposition. He has been in the outdoor industry since the late 1970's and has been involved with a lot of federal and state regulations. There is no way this change could occur in Omaha without legislative action and easement issues. The federal and state regulations control up to 660 feet inside the limits of an incorporated municipality. When you get outside of that 660 feet, the federal and state regulations are no longer in the picture and a permit is not required from the state. This makes the city legally responsible for allowing the sign. It is Mr. Carlson's opinion that 660 feet is not gaining anything and half the time you can't read the signs being that far away. He believes it should be regulated but not prohibited.

The Commission reviewed the letter from the State Department of Roads.

Carroll inquired as to how many of the existing billboards would become nonconforming. Rick Peo of the City Law Department was thinking that the existing billboards that did not meet spacing requirements were already made nonconforming when the original ordinance was passed. He would need to further research the ordinance to evaluate the restrictions as to whether the signs could be rebuilt or not.

Bills-Strand noted that the memo from the State Department of Roads states, "...we believe we did purchase easements on the rest of the interstate including around Lincoln." Miller acknowledged that is what the state has said, "we believe", but they have been unable to provide proof that the easements exist. The state "thinks" that there are easements in Omaha from

L Street back to the Missouri River, but they are unable to find any record of the easements.

Carlson referred to section 27.69.035(b)(5) which is in existence, stating that, "Within one-fourth mile on either side of the corporate limits of the City, the minimum distance between an off-premises sign and any of the below listed entrance corridors to the City shall be 800 feet....". He believes that language is already more restrictive. Miller observed that the measurement is from the corporate limits and basically refers to an entrance corridor protection. Carlson thought it included the corporate limits when it states "either side of the corporate limits".

Carlson inquired as to the state and federal regulations now. If we're concerned that we need to do something because there is potential for no state oversight, what is the regulatory protection that we are losing? Miller responded that the state was regulating up to the 1959 corporate limits, and now they have changed to regulate up to the zoning jurisdiction. This is being proposed because we don't know what the state is going to do. Miller was uncertain as to the spacing requirement by the state. Carlson clarified then that if the state does not regulate, we want to have the same requirement that the state currently requires. Miller concurred.

Bills-Strand suggested a deferral.

Miller further offered that this regulation picks up from where we believe the state has left off as far as policy change. This does not change the regulations, but puts it under local control versus state control.

Bills-Strand wants a definition of the nonconforming issue and the impact of the nonconforming use. She believes it does have an economic impact.

Taylor moved to defer two weeks, with continued public hearing and action on November 10, 2004, seconded by Carroll and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

**SPECIAL PERMIT NO. 1999A**  
**TO AMEND THE WILDERNESS HILLS COMMUNITY UNIT PLAN,**  
**ON PROPERTY GENERALLY LOCATED AT**  
**SO. 28<sup>TH</sup> STREET AND WILDERNESS HILLS BOULEVARD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Deferral.

Ex Parte Communications: None.

Proponents

1. **Jason Thiellen of Engineering Design Consultants** appeared on behalf of **Lincoln Bancorp LLC**, and indicated general agreement with the deferral and conditions of approval, except Condition #2. Thiellen requested that the rear yard setback for Lots 8-34, Block 7, be reduced to 5 feet instead of 10 feet. He submitted maps of the general area of the amendment. With these townhomes, they are trying to have a common open space, landscaped green area. Because of the common outlot that they are trying to achieve, they cannot meet any of the rear yard setbacks in the R-3 zoning district. They initially thought 10 feet would be enough; however, it is not enough and they are requesting to reduce it to 5 feet.

Brian Will of Planning staff clarified that the intent of the deferral is to readvertise the application, including the additional waiver requests, with a new staff report to include a review of the additional waivers and the change from 10 feet to 5 feet.

Taylor moved to defer two weeks, with continued public hearing and action on November 10, 2004, seconded by Carlson and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

**COUNTY SPECIAL PERMIT NO. 04055,**  
**FOUR STONES COMMUNITY UNIT PLAN,**  
**and**  
**COUNTY PRELIMINARY PLAT NO. 04025**  
**FOUR STONES,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 29<sup>TH</sup> STREET AND STAGECOACH ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested a four-week deferral until November 24, 2004.

Mike DeKalb of Planning staff submitted additional information for the record, including a letter containing eight signatures in opposition; a letter from the Lower Platte South NRD indicating that they have about three dams there with some easements in place and that the NRD will need to work with the applicant; and another letter in opposition, with numerous signatures by the Lionberger beneficiaries and parties.

Larson moved to defer four weeks, with continued public hearing and action on November 24, 2004, seconded by Carlson and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

### Opposition

**1. Steve Kramer**, 19205 S.W. 29<sup>th</sup> Street, about 3/4 mi. north of the proposed development, testified in opposition. He moved to the country 18 years ago to be in the country. They do not particularly want Lincoln following them out there. Thirty-one houses in a section of land which already has four houses is not a rural area. It is served entirely by gravel roads. This would mean at least 60 more cars a day on the gravel roads. There will then be demands for the county to pave the roads. He believes lots can be found in Hallam. There is a rural development just on the west edge of Blue Stem Lake which doesn't seem to be going very far. He is not sure there is a need for thirty-one more houses in that area.

**2. Valerie Egger**, 1000 W. Stagecoach Road, Martell, testified in opposition. She is concerned about the impact on the roads with the number of homes proposed. Stagecoach Road is a very hilly road and dead-ends 1.5 miles to the west and 5.5 miles to the east, with a dirt road in the middle. The impact this development would have on that road would be significant. She lives directly on the road so she immediately notices any difference in the traffic. This is in the Norris School District. She perceives that traffic would go down her road either to Lincoln or to Norris School. There is a narrow dam on that road. There are children on their bikes on this road.

Egger noted that the staff report indicates that there is an inactive gravel pit south of the development. She agrees that it was inactive at one point, but it has been active now for several years. She can picture kids exploring and going over to the area of the pits.

Larson asked how far Stagecoach Road is south of Pine Lake Road. Ms. Egger believes it would be about six miles. Stagecoach Road is three miles south of Hwy 33.

**3. Andrew Lewis**, 901 W. Stagecoach Road, testified in opposition to this development being one mile from his house. Thirty-one houses will add more cars on the road and the traffic goes fast on this road. He wonders how much more litter there might be with 31 houses. This is also a University of Nebraska Natural History Study area, with deer all around the area and a flock of turkeys. He does not want more animals to die because of the additional cars

and trucks. There are farmers all around his home. The 31 new houses might not be used to farm equipment. He rides his bike on Stagecoach Road. If all of these houses have driveways on Stagecoach Road, he does not believe he will be able to ride his bike on the road anymore.

**COUNTY SPECIAL PERMIT NO. 04056,**  
**NATURE MEADOWS COMMUNITY UNIT PLAN,**  
**and**  
**COUNTY PRELIMINARY PLAT NO. 04026,**  
**NATURE MEADOWS**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 120<sup>TH</sup> STREET AND STAGECOACH ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Mike DeKalb of Planning staff submitted a request by Kent Seacrest on behalf of the applicant for a two-week deferral.

Larson moved deferral, with continued public hearing and action scheduled for November 10, 2004, seconded by Pearson and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

There was no testimony.

**COMPREHENSIVE PLAN CONFORMANCE NO. 04008,**  
**ANTELOPE VALLEY REDEVELOPMENT PLAN.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: None.



Proponents

**1. Wynn Hjermstad** of the **Urban Development Department** presented the proposal which seeks a finding of conformance with the Comprehensive Plan. This is referred to as the “three-legged stool” – transportation, stormwater and revitalization. The transportation and stormwater “legs” are under construction. The Redevelopment Plan is the third leg, which brings the other two together to make this area of our city a better place to live. There are three partners in the project: the City, the Lower Platte South NRD and the University of Nebraska-Lincoln.

Regarding public process, there were three Mayor committees: one looked at neighborhood issues, one looked at the East Downtown area and one looked at Whittier. In addition, the Joint Antelope Valley Authority (JAVA) worked with a citizens committee. There was also a staff committee and consultant team. RTKL out of Dallas, TX, was the consultant and they helped provide the framework. Once the “draft” plan was developed, it was presented to all of the committees and the JAVA board. The City Council needs to approve the Redevelopment Plan, but it has also been reviewed by the JAVA board and they recommend that it be approved. The proposal has been presented at a precouncil meeting; Urban Development has met with property owners that could be affected; and today, a program was taped for broadcasting on Channel 5 to continue to get the word out to the public.

Why we are doing this? Hjermstad stated that the transportation portion is to move traffic safely and efficiently; the stormwater element will eliminate the potential for flood damage to 200 businesses and 800 residences; and when it comes to community revitalization, Lincoln has chosen not to go the way of other big cities with a lot of effort being put back to rejuvenating the core of the City. With Antelope Valley, we’re saying we do not want to do the “pay me now, pay me later” method where we don’t invest now and let things deteriorate. The Angelou study talked about 70% of new jobs coming from entrepreneurs here in Lincoln. Antelope Valley provides some locations for those new entrepreneurs—those new jobs—that want to be Downtown or near Downtown and near the University. There are also housing choices. Downtown is the biggest employment center in Lincoln. There is a demand for housing Downtown. We want to make the areas surrounding Downtown better to continue to help strengthen Downtown. This might include row homes, granny flats, mansion homes (apartment units that look like old houses). This will provide more choices for people that like the Downtown atmosphere.

This plan goes way beyond the requirements of the state statutes that must be followed for a redevelopment plan. We talk about health and human services, i.e. what about the people that are already there? What about the low or moderate income people? We don’t want to displace those people. We are addressing the needs of the people that are already there.

In terms of projects, this area includes the North Bottoms, Clinton, Malone, Hawley, Woods Park, Near South and East Downtown neighborhoods. Urban Development will be back many times to amend the Plan.

In terms of statutory requirements, Urban Development is looking for actual approval of two projects with this Redevelopment Plan: an affordable housing project between U and V Streets, 23<sup>rd</sup> to 24<sup>th</sup> Streets, including new single family affordable homes; and neighborhood enhancement. There are a number of strategies to enhance the neighborhoods that are there now. That includes doing basic infrastructure, including alleys, sidewalks and providing financing resources to people that qualify to put porches back on their homes. In some cases there may be some removal of housing replaced by new housing.

There are currently two concepts that are “boiling but not quite cooked yet” – one in Malone area with some new housing, and the other in East Downtown looking at potentially some research and development and some new housing. Both of these projects are only concepts at this point. These are projects that do not have to wait until the floodplain improvements are done.

In addition to the new projects and concepts, 29 other potential projects have been identified.

Hjermstad stressed that this Redevelopment Plan is a guide – the two concepts and the 29 projects are a guide. The fact that we have identified these projects gives us a start but it doesn’t mean that everything will happen.

**2. Kent Seacrest** added that the 140 page Redevelopment Plan document is on the City web site under “Antelope Valley”, and there are copies of an executive summary available.

Carlson noted an e-mail from a couple who are being moved out of their rented space for their business and have purchased property which is now in one of the concept areas. What are we going to do to respect those that are already making investments? Hjermstad indicated that they would encourage others to join in. Although the projects have been identified, they are not city projects. If people that are there take the initiative to make the improvements, that is great. The ideal is for them to do it and not for the city to have to come in behind and do it. We are looking for the owners to go ahead and make improvements that fit in.

Hjermstad added that a critical part of redevelopment are the trails, parks and open space. A big piece of the revitalization area is providing that green space and the trail system. There is a pretty extensive trail network that is also part of the Redevelopment Plan.

Pearson inquired whether 27<sup>th</sup> Street from Cornhusker to “O” Street is under a different redevelopment plan. Hjermstad confirmed that to be within the 27<sup>th</sup> Street Redevelopment Plan which goes from “O” Street to Leighton Avenue. That is considered a “sister” plan.

3. **Michelle Waite**, Community Relations Assistant to Chancellor Harvey Perlman, testified in support on behalf of the **University of Nebraska-Lincoln**. The University considers the Redevelopment Plan as the third leg of the stool that actually puts the glue together to create a more cohesive integral plan. The University views itself as an integral part of Downtown and believes the Downtown benefits from the University. The University master plan reflects future research space east of 17<sup>th</sup> Street between Vine and R, which includes the Beadle Center. The Antelope Valley project will resolve the floodplain problems in this area. The new research grants require hiring new faculty and recruiting graduate students. Space is now a major factor limiting the University's research growth. The Redevelopment Plan will assist this expansion opportunity and provide many economic development opportunities and national recognition in academic and scientific research. It provides a vibrant area, while enhancing the quality of life. The plan will benefit the entire community.

4. **Tom Huston**, 233 S. 13<sup>th</sup> Street, Suite 1900, testified in support on behalf of his clients who desire to remain anonymous at this point in time. He represents a team of developers who have joined forces and will conduct redevelopment in this area. His clients have unique specialties and unique expertise in developing housing products and other mixed use products that we don't see in Lincoln, i.e. continuing care retirement community; mixed use project development combining retail and market rate housing; and parking structures, combining parking with market rate housing and work force housing, providing full range of housing opportunities. These developers are trying to put the right "ingredients in the pot to get it cooking." As a preliminary step and statutorily required step, the proposed Redevelopment Plan has their full support and they hope to bring projects forward as soon as they "get the ingredients to a boil."

5. **Randy Stramel**, 4330 Sumner Street, testified in support as a member of the **JAVA Citizens Committee** and read a letter presented by the JAVA Citizens Committee to the JAVA Board on October 14, 2004. The Redevelopment Plan builds the third component of Antelope Valley. The Citizens Committee has watched and participated throughout the process. Public involvement has been exceptional.

6. **Betsy Kosier**, 3401 Grimsby Lane, testified in support as a member of the **Downtown Lincoln Association Board** and Co-Chair of the **East Downtown Subcommittee** for the Antelope Valley project. The DLA Position Statement endorsing the Redevelopment Plan was submitted. Since 1997, DLA has played an active role in the Antelope Valley process. DLA sees a number of strengths in the Plan: 1) the emphasis on "O" Street as an entryway to Downtown; 2) strong focus on residential development for a wide range of income levels; 3) locations for one or more corporate campuses; 4) continued recognition and improvement of the University; 5) targeted retail development that emphasizes smaller scale service oriented retail that supports area residents, rather than large scale more extensive retail that could conflict with the Downtown core; and 6) strong commitment to quality urban design principles. The concerns of DLA have been considered in this plan, particularly in light of the Downtown

Master Plan that is well underway that needs to have a strong interface with the Redevelopment Plan. DLA will continue to be involved with the project. Antelope Valley is anticipated to one day anchor the East Downtown area in the same way the Haymarket anchors the west area of Downtown.

With regard to the East Downtown Committee, the participants have had their concerns addressed and reflected in the plan and is in full support.

**7. Bruce Bohrer, Lincoln Chamber of Commerce**, testified in support. The Chamber has been a strong proponent for the Antelope Valley plan since about 1999. It is a good example of what can be accomplished with the partnerships and cooperation from the private sector. A key component to the Chamber is the economic development component and the research efforts by the University are fully supported. If we do this right, it will be a magnificent area for some of the spin-off companies in East Downtown.

**8. Beth Thacker**, 5300 Lowell Avenue, testified in support on behalf of the **Great Plains Trails Network (GPTN)**. She is also a member of the Mayor's Citizens Advisory Committee, the Whittier Subcommittee, the Bicycle and Pedestrian Advisory Committee and the 8<sup>th</sup> Street Committee. The GPTN supports all aspects of the Plan, but in particular, the bicycle and pedestrian facilities. The new channel trail will serve as a link to six major trails leading into the Downtown and University campus areas. This plan will revitalize and enhance the surrounding neighborhoods, the Downtown area and the University campus.

**9. Delores Lintel**, 5600 Cloudburst Lane, testified in support as past president of **Clinton Neighborhood Organization**. She is also currently co-chair of the Neighborhood Citizens Committee and serving her second term on the Citizens Advisory Committee of Antelope Valley. During the 1960's, in an attempt to solve growing awareness of traffic problems, the City developed a plan for a major road from Downtown across residential areas to a proposed development northeast of the city. A group of residents organized the Clinton neighborhood and took on the challenge of defeating the Northeast Radial project. The City learned that the responsible, interested and involved citizen does care what happens and should be listened to. In 1995, the Antelope Valley Redevelopment Plan was proposed and the goals were to improve traffic, water management and neighborhood revitalization. The citizens were invited and urged to participate. That was a 180 degree turn in attitude regarding citizen involvement. There was a consensus of the community reached in this Redevelopment Plan.

**10. Jim Cook** testified in support as a member of the **JAVA Citizens Committee**. He also serves on the Asian Community Cultural Center Board and the Neighborhoods, Inc. Board. He has watched the core of the community slowly whither away. This is no time to mitigate, to quantify, to narrow our view—this is the time to make our plans grand. We need to think

about solving the hopes and the dreams of those who will live in this new development. This is not a plan drawn by a few for a few. It is a plan that is drawn by many for all of us in hopes that as our community grows. We are going to be a community of which we can be proud.

\*\*\* 10 minute break \*\*\*

**11. Terry Uland** testified in support on behalf of **Neighborhoods, Inc.** The Antelope Valley process has delivered a good vision and good plan for the redevelopment area. The Board and staff of Neighborhoods, Inc. is anxious for the Redevelopment Plan to become real projects that will require hard work. Neighborhoods, Inc. has worked closely with the Urban Development Department to anticipate ways to help the plan become reality. Neighborhoods, Inc. has already raised downpayment assistance from a new source for the Liberty Village project. Neighborhoods, Inc. has already been doing preliminary work on the exploration of other resources to help the potential projects work financially. These include capital funds and technical assistance from neighborhood reinvestment; new market tax credits and equity equivalent investments which are specialized investment projects (banks have shown an interest in making these funds available for Antelope Valley); and below market rate construction loans from organizations like the Fanny Mae Corporation.

**12. Glenn Cekal**, 1420 C Street, testified in support, but suggested that there has not been enough emphasis on the periphery of the redevelopment area. He suggested that Building & Safety needs to start enforcing all of the laws and develop a more common sense, effective definition of the word "blight" so that these older areas can be properly maintained.

### Opposition

**1. Danny Walker** testified that he is not necessarily objecting to the overall project; however, he believes that the University of Nebraska is the major benefactor in the total picture. He does not believe that is fair to the rest of the citizens of the community. The University is going to benefit from having 50 plus acres pulled out of the floodplain with this project. There are other areas of Lincoln bigger than the University that would really appreciate being pulled out of the floodplain, and those areas are neighborhoods that are not considered a transient population, like the University. In the future, before we start dropping hundreds of millions of dollars into a fly-by-night project such as this, we should do some careful consideration to see where the money could be better spent.

### ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 27, 2004

Larson moved a finding of conformance with the Comprehensive Plan, seconded by Taylor and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent. This is a recommendation to the City Council.

**STREET & ALLEY VACATION NO. 02014**  
**TO VACATE RIGHT-OF-WAY GENERALLY**  
**LOCATED AT 9<sup>TH</sup> AND “L” STREETS.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: A finding that the vacation is not in conformance with the Comprehensive Plan.

Ex Parte Communications: None.

Proponents

1. **Russ Bayer**, 633 S. 112<sup>th</sup> Street, presented the application. The property in question is 830 “L” Street. This property was originally built in 1986 and then was expanded in 1990. It was the old ambulance headquarters. When the city took over the ambulance business in the year 2000, it was important to begin to find other occupants for the building. When originally built, there was plenty of parking for the ambulance service employees, but when finding additional tenants, it is important to be able to offer things such as parking. The whole purpose of this vacation is to expand the parking on that street, which is a stub. The tree shown on the map is no longer in existence. It is not the intent to move the parking all the way up to the edge of 9<sup>th</sup> Street. They want to take the space directly in front of the building and create some additional private parking.

Bayer is not opposed to granting an easement. He agrees that the property be designated only for parking. There is no intent or desire to expand the building in the future. He simply wants to offer more parking for the tenants. In the four years that this property has not been the location of the ambulance business, the city has not done any snow removal on this street. Bayer believes the vacation adds property to the tax roles.

Carlson noted that this application was submitted some time ago and was not brought forward while the petitioner investigated other avenues. Bayer stated that he met with the staff. There is a public use of right-of-way option; however, it does not allow parking, and the city could come in and take that use of the right-of-way away at any time. Bayer is interested in a more permanent situation. They did not find another alternative that protected the company's investment in the parking area.

Pearson asked Bayer to respond to Analysis #6 in the staff report which indicates that the petitioner acknowledges the use of the area for parking will be at the owner's risk should the City need the space for right-of-way purposes in the future. Bayer assumes that the

City could come back and buy the land back. If that's the case, he is comfortable. If the City ever wants to use that right-of-way, Bayer indicated that he would be happy to sell it back.

There was no testimony in opposition.

Rick Peo of the City Law Department clarified that from the City's perspective, if an easement was retained for future right-of-way purposes, the City would not buy the property back. The City would terminate the easement. It might be possible to draft the easement to be on an annual rental with roll-over from year-to-year until such time as the City needs the property for right-of-way purposes. The language "at your own risk" is that the property owner loses the value of any permanent improvements put in place if the City needs the right-of-way in the future. The only way the city could buy the property back is if the right-of-way is vacated and sold to the petitioner.

Carlson noted that there is comment in the staff report about Public Works needing the property for maintenance. Chad Blahak of Public Works noted that the vacation proposal butts up against the retaining wall that holds up "L" Street. For maintenance purposes, the City is taking the position that it is better for the City to own the property just in case there is a need for maintenance to any of those facilities. Carlson believes the easement would allow the City to maintain it. Blahak stated that the Public Works preference is to maintain city ownership of the property.

Carlson wondered what the city's anticipated expanded use or need of the property might be. Blahak stated that there would not be any expanded use, but rather any unforeseen maintenance issues with the overpass. It is City policy not to vacate if there is a benefit to maintaining city ownership. If the vacation is ultimately approved, Public Works would want to maintain all of the access, maintenance and use rights as if it was still under city right-of-way ownership.

Pearson observed that the City has some parking under some overpasses over by Meadowgold and StarTran. She inquired whether those are City lots or private lots. Blahak did not know.

Pearson clarified with Blahak that the problem for Public Works is the proximity to the overpass. Blahak concurred. The City would be owning the right-of-way as opposed to an easement that may or may not be interpreted a different way in the future. Public Works would not be opposed to a long term rental agreement for parking as long as the city still owned the right-of-way. But he was under the impression that the use of right-of-way permit language in Chapter 14 said that parking was not an allowed use in use of right-of-way permits.

Peo agreed that if it is retained as public right-of-way, then parking is not a permitted license use, but if it is vacated, then the right-of-way goes away and the City would retain title. If the

City retains title, the City can either sell it or potentially rent it out, give an easement, or whatever. The City would have more control and more options of how to treat the property if it is vacated right-of-way. It is a policy decision as to whether it should be vacated.

Carlson believes the conditions in the staff report seem to indicate the “inside out” of that. It looks like we’re going to convey title to the private owner, yet retain an easement for public right-of-way purposes. Peo believes that maybe we have stumbled onto some inappropriateness on past applications, such as The Tool House, where the idea was to have an easement. In the ordinance for vacating right-of-way, it is envisioned that the property is not needed for public right-of-way and the City would then sell it to the abutting property owner. We have made some exceptions in the past and have been attempting to manufacture a hybrid, and that has created part of the confusion.

#### Response by the Applicant

Bayer stated that they did discuss the lease arrangement but it came down to the fact that the property could not be used for parking. Now it sounds like he could negotiate whether to lease or purchase the property if it is vacated. It would seem that the City would want to do some things to keep a good business that is in the building by giving them 16 or 18 parking stalls. He does not need the whole area vacated. If the City needs 10 or 15 feet, he does not care as long as it remains a road so that he can back into it and as long as the City agrees to remove the snow. Bayer would prefer to buy the property, pay the city, pay property taxes and do the maintenance. He is also happy to participate in negotiating a fair lease.

There was further discussion between the Planning Commission and staff relating to the various options. Peo reminded the Commission that their role is a finding of conformance or not conformance. A finding that it is not in conformance with the Comprehensive Plan does not preclude the City Council from vacating the property. The City Council has to consider the public policy in making its decision to vacate. Some of the options for the City Council are to vacate it and sell it out-right; not vacate it; or vacate it, retain title and allow it to be used under an easement or license agreement.

Peo suggested that Conditions #1.1 and #1.2 in the staff are not necessary because they are done at the time that the property is sold. The only condition necessary is compliance with Chapter 14.20, which requires paying for the property up front.

In consideration that parking Downtown is one of the issues addressed in the Comprehensive Plan, Marvin Krout, Director of Planning, changed the staff recommendation because he believes the staff does want to work something out with Mr. Bayer and the City wants to protect its interest. He believes this proposal can be in



conformance with the Comprehensive Plan with a staff recommendation that the vacation be subject to a lease agreement with the petitioner so that the City's future rights can be protected.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 27, 2004

Taylor moved a finding of conformance with the Comprehensive Plan, and that the vacation be subject to a lease agreement, seconded by Carlson.

Pearson asked that the record reflect that the Commission finds that the need for parking Downtown makes it in conformance with the Comprehensive Plan.

Motion for a finding of conformance carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 04068**  
**TEXT AMENDMENT RELATING TO**  
**AREA REQUIREMENTS FOR RACE TRACKS FOR**  
**MOTORIZED VEHICLES**  
**and**  
**SPECIAL PERMIT NO. 04057**  
**TO OPERATE A RACE TRACK FOR**  
**MOTORIZED VEHICLES,**  
**ON PROPERTY LOCATED AT 201 W. SOUTH STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Approval of the text amendment and conditional approval of the special permit

Ex Parte Communications: None.

Mike DeKalb of Planning staff submitted three items of correspondence in opposition; one item of correspondence in support; and one item of correspondence in a neutral position by the West "A" Neighborhood Association.

Chair Bills-Strand requested a motion to schedule a Special Meeting for the on-site field demonstration on Wednesday, November 3, 2004, at 2:30 p.m., at 201 West South Street, and continued public hearing and action on Wednesday, November 10, 2004, at 1:00 p.m.

Carlson moved the motion, seconded by Carroll and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

Bills-Strand advised that those individuals who testify today will not be allowed to testify at the continued public hearing on November 10, 2004, except for testimony in response to what is observed or heard at the field demonstration. The continued public hearing is to discuss new information only. At the field demonstration on November 3, 2004, there will be no discussion between the Planning Commission members or with the applicant, and there will be no public testimony taken. The demonstration is for observation purposes only.

### Proponents

**1. Mark Hunzeker** appeared on behalf of the applicant, **Dr. David Sumani**. With respect to the text amendment, the only purpose is to reduce the minimum area for race tracks from 35 to 20 acres, just for motorcycle tracks, and to enable the City Council to reduce the distance from the center of the track to residential or parks or other types of protected uses (other than within the Ldn sound line of the airport study). This does not exempt the track from the city's noise ordinance.

With regard to the special permit, Hunzeker advised that they have done some noise testing and more testing needs to be done to clarify the exact requirements with respect to sound levels at the property line and a mile away from the center of the track. The applicant has promised to be cooperative with the Parks Department and their particular needs as it relates to the use of Sherman Field and Sawyer Snell Park. The first thought was simply not to operate the race track during times when there were activities scheduled; however, that is not going to be acceptable because there are activities going on virtually always in these ball parks. They have agreed to further negotiate with the Parks Department after the on-site testing. The previous testing has shown that the sound levels from other uses in that particular industrial neighborhood were greater than the sound levels coming from the testing that was being done on the track. If the testing on November 3<sup>rd</sup> finds that the race track cannot meet the noise standards or that it is going to be impossible to work out something with the Parks Department, then this application will most likely be withdrawn. If something can be worked out, then there are going to be some real questions and issues to discuss with respect to some of the conditions of approval in the staff report.

**2. Dr. David Sumani** appeared to answer any questions. The area on 2<sup>nd</sup> and South Street was selected because 1) it is zoned I-1, and 2) it is surrounded by areas that already produce a lot of noise, i.e. Burlington Northern trains every 15-20 minutes, the highways that border the proposed track on three of four sides, as well as Gooch's Mill that operates in that area.

This is not a proposal for just a motocross area for kids and their motorcycles and their families, but also for kids with bmx bikes to use the track on days when the motorcycles are

not running and to use approximately 25,000 sq. ft. for an in-ground skate park. This is not being created for Dr. Sumani's own enrichment. This is a donation. It is a not-for-profit company that owns the Husker Off-Road Riding Club. All of the monies and profits generated from this will go back into maintaining the area, the park and the equipment that maintains the park. He is contributing his investment to the community and to the kids in the community. If the sound tests and the demonstration prove detrimental to the neighbors – that the sound as measured violates the city ordinances – or if it proves it impossible to work with the Sherman Field and Sawyer Snell Park, he will withdraw the application and continue looking elsewhere within the community for a site.

Pearson noted that one of the letters that was submitted indicated that the test would not have as many bikes as there are during the races. Dr. Sumani stated that a typical motocross race will have anywhere between 5 to 10 or 12 motorcycles operating at any one time during a particular race. 30 bikes could not operate on this track at the same time in a safe manner. On average you might have eight motorcycles operating at one time. We are asking between 12 and 15 motorcycles to run simultaneously during the demonstration. The test track will simulate actual sounds as well as things that occur during a race. There will be opportunities to observe at the track, from neighborhoods that abut the area and from Wilderness Park. Dr. Sumani has vowed not to disturb the land. He will not be doing anything to the lake or to the drainage of the lake into the wetlands area. A conduit will be built between the lake and the wetlands area to preserve that area. There will not be any fill dirt brought in. The dirt on the site would be manipulated to make the jumps on the site. The floodplain will not be disturbed in any way.

Pearson also recalled that one of the letters discussed other bikes warming up while a race is going on. Dr. Sumani agreed that there are some bikes that warm up in the pit area as well as next to the owner's trailers, etc. Typically, that doesn't occur until several minutes prior to the next race. In other words, he does not believe the warming up occurs at the same time that the other bikes are running a race. In fact, he is willing to make a rule so that does not occur.

With regard to practices, Dr. Sumani stated that they had anywhere from three to five motorcycles operating on occasion in Denton when there were no races. Sometimes there might be as many as eight to ten.

**3. Phil Blizek**, 3718 B Street, an employee of Rod's Power Sports, testified in support. He suggested that the activities at the baseball fields has not yet been affected by the trains or the food mill that currently exists. Blizek suggested that the economics need to be considered, including fuel, food, race fees, tourism, and businesses selling motocross products—bike sales, safety equipment sales. He believes that the participants at the race track are avid supporters of the environment and they do not litter the area. This is an opportunity for families to enjoy the sport and for the children to stay out of trouble. There is a desire to bring some

children out that have not had the opportunity, i.e. Boy Scouts, Cedars Home for Children. This is an active sport and an endurance sport.

Taylor inquired whether the “pocket bikes” would be allowed on this track. Blizek indicated that a “pocket bike” is a street machine and is becoming a problem. That is an on-street bike and it would not be allowed on the race track because the race track is for off-road use only. There is no place for these motorcyclists to ride except in Bee and Friend, Nebraska. The entire family participates in the sport. In order to use the track, all of the correct safety equipment is required and inspected. This is an alternative to getting the “pocket bikes” off the streets.

### Opposition

**1. Tory Klinker**, testified on behalf of her parents, Richard and Lydia Toohey, who just recently purchased a new home on Folsom Lane. Her parents were unaware of this proposal when they purchased their home about two weeks ago. The concerns are 1) people awareness – it is apparent that a lot of people in the West “A” area have not been informed; 2) noise; 3) dust; 4) types of crowd it will bring, fearful that it will not be a place just for kids; and 5) the proposal to reduce the distance requirements. Her parents’ home is about 5 ½ blocks from the proposed track site.

**2. Wayne Boles**, 128 N. 13<sup>th</sup>, Apt. 506 in University Towers, testified in opposition with concerns for the affect on the over 190 species of migratory and territorial wild fowl in Wilderness Park. Many of the feathered species use warbles, chirping and song to communicate with one another and to attract mates. Ninety percent of this feathered romance occurs in the spring and summer. When outside noise occurs, birds increase their volume up to 90 decibels–this is a lot of stress on a bird. If our noise exceeds the capabilities of these little throats, breeding is diminished. There are owls and hawks which hunt by use of sound to hear their prey. If they cannot hear the sounds of the creatures in their food chain, their survival is threatened. Humans are also nurtured by nature’s quietness and sounds. Ours is an educated community with an interest in things of nature and philosophy. We cherish the past and enjoy those quiet pasttimes in the present which nurture the soul. In this regard, Wilderness Park is our memorial to historic and pre-historic times. Boles then gave a history of Wilderness Park. The birds were here first and their songs have endured for millennia. We have already infused too much noise into this sacred space from nearby highways. Must we further intrude with unmuffled entertainment? Is there to be no place left where one can hear the chirp of a bird or the rustle of a leaf? Granting exceptions to a well thought-out ordinance would be one more assault on Wilderness Park. This Commission needs to say “no” to further encroachment on this unique and esteemed sanctuary.

Taylor requested an assessment of the damage to the ecosystem, whether temporary or permanent. Boles stated that it would interfere with both mating and the hunting of those birds

like the owl. We have already created a lot of ambient sound there from the highway traffic. If we deliberately approve more encroachment that involves loud noise, we're doing something that is going to be damaging to the creatures who try to live there. Time will tell.

Taylor suggested that it's the cumulative effect as opposed to just this motocross.

**3. Tom McCormick**, 1406 D Street, testified in opposition. It is true that we have a lot of ambient noise in that area with the trains and the roar of the Husker games that reaches down there as well. But ambient noise is one thing. Motorcycles which are constantly changing pitch and constantly changing volumes and going up and down the scale is an entirely different thing. It is a far more disturbing noise. He has been in communication with a number of the people who are involved in neighborhood associations in the area and everyone has been extremely concerned about the noise. Jeff Tangeman of Everett Neighborhood Association lives about 14 blocks from the site and he can easily hear the trains and the sounds from the Husker stadium as well. Migratory birds and other kinds of birds are going to be scared away if there are motorcycles running. McCormick believes that this property should be added to Wilderness Park. It could be nurtured and brought back to a more natural state with very little effort. We need to return to the Greenprint plan. McCormick noted that many of the parties in support are not residents of the southwest sector. It is important that the noise testing mimics the actual conditions of a motorcycle race, with the bikes at full throttle, with the same number of bikes that would be at a race and with the sound of bikes warming up while the other bikes are racing. Let's not forget the young people that play at Sherman Field. He does not believe it is going to be possible to avoid interference.

**4. Bob Kovar**, 801 Regina Court, testified in opposition. His home is 3/4 mile from the race track site. He does not believe this race track should be allowed inside the city limits. This is a loud sport. He purchased his home September 10, 2004, unaware of this application coming forward. There should not be any noise added to what already exists.

**5. Jean McClymatt(sp)**, 1702 Sewell Street (16 blocks from the proposed track), Vice-President of **Irvingdale Neighborhood Association**, testified in opposition. Irvingdale neighborhood runs from 9<sup>th</sup> to 22<sup>nd</sup>, from South to Van Dorn. She believes that there needs to be more testing and testing done under a variety of conditions to collect reliable data. One test is not going to be sufficient. Other concerns include pollution of soil and air with gasoline and oil; the efficacy of spill prevention and the control counter measure response practices due to either the staffing levels that are intended or the training of the staff; impact of increased traffic; potential for unauthorized use of the site after-hours; effect on the skate park already in existence at 4<sup>th</sup> and Hill Street; and the effects of building in the floodplain. Irvingdale neighborhood is not convinced that the changes to the ordinance are warranted for this project. There needs to be more extensive research and testing before approval is granted.

**6. Glenn Cekal**, 1420 C Street, testified in opposition. He does not believe this question should even be coming up. He is concerned about the cumulative problem of noise and the quality of peace and quiet. This area should already be part of Wilderness Park or it should be a detention area.

**7. Mary Roseberry-Brown**, 1423 F Street, testified in opposition on behalf of the **Friends of Wilderness Park**. This is the wrong location for a motorcycle track. The whine of motorcycles is a very piercing sound above other lower pitches. Many people go to Wilderness Park for peace and solace and as a quiet retreat. The northern part of Wilderness Park is directly across Van Dorn Street from the proposed race track. This area is adjacent to the public space area of the bicycle trail going along the Salt Creek levee, it is adjacent to Sherman Field park, it is catty-corner from Sawyer Snell Park and about one-half mile from Standing Bear Park and three residential areas.

Roseberry-Brown referred to p.F62 of the Comprehensive Plan which calls for biological inter-connectiveness. This means that wildlife species are much more benefitted by a corridor rather than just a plot of green here and there. About one-third of the property is wetland, some natural and some manmade. That area along with an area directly to the north, is a 40-acre wetland owned by the NRD for flood storage. Those two areas combined make a corridor. This is an extremely significant corridor. The motorcycles would race through those wetlands, thereby destroying any wildlife habitat. It would disrupt the corridor so that the water fowl using the NRD area just to the north would not have the corridor connection to Wilderness Park. Birds are territory-oriented and when you disrupt the habitat, they cannot find other territory. Most of them just die. She requested that the Commission consider p.F62 of the Comprehensive Plan in making their decision on this application.

Roseberry-Brown also believes that there need to be more noise tests. One is not enough. The testing should also be done on Saturdays and Sundays because that is when most motorcycle events occur.

This area is in the floodplain. The NRD previously voted to make preliminary moves toward purchase of this area and was in the process of appraising it and doing a title search when Sumani put his option down. The Friends of Wilderness Park would ask the Planning Commission to let the NRD do their job and preserve this land for flood storage. She also believes that there would be additional fill needed for the building that Sumani is proposing and also for the parking lot.

Roseberry-Brown also understands that there are other sites available. The County Board has appointed a committee and let's let them find a better place.

"If this was in your neighborhood, would you vote for it?"

“Since you have responsibility for the quality of life in the community, will this project improve the quality of life for those in this area?”

**8. Danny Walker**, President of South Salt Creek Community Organization, testified in opposition. They have experienced noise problems from this location created by bands and loud parties. Part of the problem seems to be that there are sound barriers on the south, east and west; however, for the South Salt Creek neighborhood, the southern portion of the property has no such barriers, thus allowing noise to flow into the neighborhood. There are five residential properties: 1621 S. 3rd, and 1511, 1503, 1435 and 1436 S. 2<sup>nd</sup>, that are located south of A Street within .6 of a mile of the proposed location. On occasion, the area along South Street becomes somewhat overrun with pedestrian and vehicle traffic during the summer months with very meager accommodations to handle the volume created by the current recreational functions in the area. His neighborhood is not opposed to motocross activities; however, this location is a very poor choice. Walker believes the applicant has received numerous offers to locate in areas outside of Lincoln and he should pursue those opportunities.

In addition, Walker understands that people are being harassed. The Husker Off-Road web site is making comments about the letters received. One woman withdrew her letter because she was intimidated.

Also, in July, Walker submitted a proposal to the NRD to purchase this property for flood retention and extension of Wilderness Park.

**9. Scott Stovall**, 2801 Pear Street, questions the mixed use of motocross with skateboarding. We also need a mixed use facility for bmx bikes and skateboards. He questions the mixed use of the motocross, particularly when the bmx bikes are crossing over from the motocross into the skate park. We need a park that can handle stress of bmx, skateboards and in-lines, and a separate facility for motocross. He believes Antelope Valley has allocated a parcel of land for an ice skating rink. He suggested that there be a mixed use park for bmx bikes, skateboards and roller blades at that location, but it would not be feasible to incorporate the motocross at that location.

#### Staff questions

Carlson inquired about the noise test. Rick Thorson of the Health Department advised that the Health Department has agreed to help with the noise test during simulation of a motocross race. They will take a noise meter to several different residential locations and conduct testing. This facility, like any other, is going to have to comply with the city's noise ordinance, so that is what they intend to test. This is a very simple procedure. The meter is turned on while the motorcycles are racing and the testing is conducted. The Health Department has done this very type of testing on numerous occasions. Dr. Sumani is running the

demonstration. The Health Department will be on-site to verify the number of motorcycles, the type, the size, etc. The test will be an excellent opportunity for people to actually tune their ear to it and see if they can hear it and whether it is objectionable. The level of noise that the Health Department will monitor will be based on the city's noise ordinance. The Health Department will discuss their findings at the meeting on November 10<sup>th</sup>. The test levels at Denton were very low, about 55 decibels. The city ordinance noise level allows 65 decibels over a 10-minute period in a residential setting from 7:00 a.m. to 10:00 p.m. The ordinance level is 55 decibels at night, 10:00 p.m. to 7:00 a.m. Also, in the same context, the decibel readings are higher for the industrial zoned areas, which is up to 70-75 decibels.

Bills-Strand inquired about the traffic on Sundays during the games at Sherman Field and Sawyer Snell. Lynn Johnson, Director of Parks and Recreation, agreed that to be something the Parks Department wishes to analyze. He is concerned about the noise impact as well. The primary interest is the safety of the players. They need to be able to hear the officials and the coaches. With regard to parking, Johnson indicated that he will be discussing this further with the applicant. Dr. Sumani has indicated a willingness to perhaps share parking with the football facility and Sawyer Snell. At this point, it has been discussed that the baseball/football facilities operate at opposite times, and then the parking would be available for the alternate use.

Taylor inquired of staff as to the cumulative impact on wildlife. Johnson suggested that Terry Genrich, the Parks Department naturalist, would be available on November 10<sup>th</sup> to address this issue.

#### Response by the Applicant

Hunzeker expressed his interest in reserving the right to discuss the conditions of approval at the hearing on November 10<sup>th</sup>.

Dr. Sumani invited the Friends of Wilderness Park to come out to Denton to observe. There are over 200 wild deer that continue to inhabit that area and there are over 300 wild turkeys. There are owls that hunt routinely. None of this wildlife has been impacted by the motorcycles.

Dr. Sumani also clarified that he did not do the writing on the web site. He has called and apologized to the woman and he has directed that the comments be removed from the web site.

Carlson moved to schedule a rain date for the test for Tuesday, November 9, 2004, at 1:00 p.m., seconded by Pearson and carried 5-0: Carlson, Taylor, Larson, Pearson and Bills-Strand voting 'yes'; Carroll, Marvin, Sunderman and Krieser absent.



**CHANGE OF ZONE NO. 04034**  
**FROM AGR AGRICULTURAL RESIDENTIAL**  
**TO R-3 RESIDENTIAL,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 66<sup>TH</sup> STREET AND HIGHWAY 2.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**     October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested an additional four week deferral. Taylor moved to defer, with continued public hearing and action on November 24, 2004, seconded by Larson and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

There was no testimony.

**WAIVER NO. 04013**  
**TO WAIVE SIDEWALKS**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 70<sup>TH</sup> STREET AND STERLING PLACE.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**     October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested an additional two week deferral.

Taylor moved to defer, with continued public hearing and action on November 10, 2004, seconded by Pearson and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

There being no further business, the meeting was adjourned at 4:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 10, 2004.

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